

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

PHILLIP MICHAEL TISDALE

PLAINTIFF

v.

No. 2:20-CV-02066

AUNDREA GRIFFITH, et al.

DEFENDANTS

OPINION AND ORDER

Before the Court is Defendants' motion (Doc. 39) for summary judgment, statement of facts (Doc. 40), and brief in support (Doc. 41). Plaintiff did not file a response and the time for filing a response has expired.¹ All material facts cited by Defendants are deemed undisputed for purposes of the motion for summary judgment. Fed. R. Civ. P. 56(e)(2); W.D. Ark. 56.1(c). The motion will be granted.

Plaintiff alleges he was injured by other inmates of the Franklin County Detention Center ("FCDC") on April 24, 2017. On April 24, 2017, Plaintiff submitted a kite, or jail note, requesting to serve as a trustee. Trustee applications are reviewed by Defendant Sergeant Griffith and require an examination of an applicant's criminal history to determine eligibility. Sergeant Griffith received six applications on April 24 and one applicant was determined to be ineligible because of a sex offender history. Sergeant Griffith mistakenly wrote on Plaintiff's kite that FCDC does not allow sex offenders to be trustees—Plaintiff had sex offender history. The kites were delivered to inmates on April 24 and Plaintiff was found a short time later laying on the ground with a bloody nose, having been attacked by other inmates.

¹ The Court notes Plaintiff's counsel has not filed anything on the docket since December 7, 2021, and did not file a response to Separate Defendant Dr. Arthur Bentley's earlier motion (Doc. 33) for summary judgment. On March 24, 2021, Dr. Bentley filed a motion to continue and represented that Plaintiff's counsel's email address was not working and calls to Plaintiff's counsel's office rang and proceeded to a dial tone with no availability to leave a message.

Franklin County EMS was called to examine Plaintiff and EMS determined Plaintiff did not need to be taken to the hospital. Plaintiff was placed into a self-isolation cell and examined by a nurse the next day. On April 28, 2017, Plaintiff lost consciousness and was transported by ambulance to Mercy's hospital in Ozark, which thereafter transferred him by helicopter to Mercy's hospital in Fort Smith. Plaintiff's complaint argues Defendants were deliberately indifferent to Plaintiff's serious medical needs. Viewing the facts in a light favorable to Plaintiff, Plaintiff cannot demonstrate an objectively serious medical need that Defendants knew of but deliberately disregarded. Rather, the most Plaintiff can show from the evidence available on summary judgment is that Defendants attempted to address Plaintiff's medical needs, even if they failed to do so adequately. Therefore, summary judgment is proper. *See Thompson v. King*, 730 F.3d 742, 746 (8th Cir. 2013) (holding deliberate disregard requires more than negligence, or even gross negligence).

IT IS THEREFORE ORDERED that Defendants' motion (Doc. 39) for summary judgment is GRANTED. This case is DISMISSED WITH PREJUDICE. Judgment will be entered separately.

IT IS SO ORDERED this 14th day of October, 2021.

/s/ P. K. Holmes, III

P.K. HOLMES, III
U.S. DISTRICT JUDGE